

### REMARKS

The Examiner is thanked for the thorough examination of this application. The Office Action, however, tentatively rejected all claims 1-31.

In this submission, claims 1, 2, 17 and 19 have been amended to overcome the rejections under 35 U.S.C. 102(b) and 103(a), and claim 18 has been canceled. The claim amendments are supported by the disclosure in at least pages 7-8 of the original specification. Accordingly, no new matter has been added to the application by these amendments. For at least the reasons set out below, Applicant submits that claims 1-17 and 19-31 are clearly in condition for allowance.

In support of its rejections, the Office Action cited the following references:

A. U.S. Patent 5,687,215 A1 by Timm et. al., entitled *VEHICULAR EMERGENCY MESSAGE SYSTEM*, (referred to as "Timm" hereinafter);

B. U.S. Patent Application Publication 2005/0153688 by Burkhart et. al., entitled *DISPLAYING HELP RESOURCES ASSOCIATED WITH PRIORITIZED HELP MESSAGES*, (referred to as "Burkhart" hereinafter); and

C. U.S. Patent Application Publication 2004/0266389 by Kennedy, entitled *MOBILE PHONE AMBER ALERT NOTIFICATION SYSTEM AND METHOD*, (referred to as "Kennedy" hereinafter).

Claims 1, 4-11, 13-18, 20-26, and 28-31 were tentatively rejected under 35 U.S.C. 102(b) as allegedly anticipated by Timm. Claims 2, 3 and 19 were tentatively rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Timm in view of Burkhart. Finally, claims 12 and 27 were

tentatively rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Timm in view of Kennedy. Applicant respectfully traverses these rejections for at least the following reasons.

Claims 1-16

Regarding independent claim 1, as amended, this claim recites:

1. An emergency call processing system for mobile users, comprising:
  - a receiver, receiving emergency data calls from the mobile users through a data network, *each of emergency data calls having a corresponding phone number*; and
  - a queuing system, prioritizing incoming emergency data calls, and subsequently calling back by the corresponding phone number to each of the mobile users to address the emergency.*

(*Emphasis added.*) Applicant submits that claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

In contrast to the claimed embodiment, Timm teaches nothing about an emergency data call having a corresponding phone number, which is received by a receiver. And further, Timm, teaches nothing about a queuing system calling back by the corresponding phone number to mobile users to address the emergency. As claim 1 was amended herein to specify that each of the emergency data calls have a corresponding phone number, and that the calling back is performed by the corresponding phone number, these features were not even alleged to be present in Timm.

For the reasons stated above, independent claim 1 patently defines over the cited references. Insofar as claims 2-16 depend from claim 1, these claims are also in condition for allowance for at least the same reasons.

**Claims 17-31**

Regarding independent claim 17, as amended this claim recites:

17. An emergency call processing method for mobile users, comprising the steps of:  
receiving an emergency data call from an user equipment (UE), *the emergency data call having a phone number*;  
prioritizing arrival emergency data calls; and  
replying to the UE to confirm *and calling back by the phone number to address the emergency*.

(*Emphasis added.*) Applicant submits that claim 17 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

In contrast to the claimed embodiment, Timm teaches nothing about *an emergency data call having a phone number, which is received from an user equipment (UE) in a receiving step*. And further, Timm, Burkhardt and Kennedy teaches nothing about *a step of calling back by the phone number to address the emergency*. As claim 17 was amended herein to specify that the emergency data call has a phone number, and that the calling back is performed by the corresponding phone number to address the emergency, these features were not even alleged to be present in Timm.

For the reasons stated above, independent claim 17 patently defines over the cited references. Insofar as claims 19-31 depend from claim 17, these claims are also in condition for allowance for at least the same reasons.

In addition to the foregoing distinctions, Applicants submits the following independent basis for the patentability of claims 2, 3, and 19. Specifically, Applicant respectfully traverses the rejections of these claims (under 35 U.S.C. § 103(a)) as failing to identify a proper basis for combining the cited references. In combining these references, the Office Action stated only that

the combination would have been obvious "to help ensure that new emergency calls are fairly queued amongst the older emergency calls." (Office Action, page 6). This alleged motivation is clearly improper in view of well-established Federal Circuit precedent.

It is well-settled law that in order to properly support an obviousness rejection under 35 U.S.C. § 103, there must have been some teaching in the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. W. L. Gore & Associates, Inc. v. Garlock Thomas, Inc., 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

"The consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this [invention] should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. ..." Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure... In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention."

(*Emphasis added.*) In re Dow Chemical Company, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, Applicant note that there must not only be a suggestion to combine the functional or operational aspects of the combined references, but that the Federal Circuit also requires the prior art to suggest both the combination of elements and the structure resulting from the combination. Stiftung v. Renishaw PLC, 945 Fed.2d 1173 (Fed. Cir. 1991). Therefore, in order to sustain an obviousness rejection based upon a combination of any two or more prior art references, the prior art must properly suggest the desirability of combining the particular elements to derive a call processing system, as claimed by the Applicant.

When an obviousness determination is based on multiple prior art references, there must be a showing of some "teaching, suggestion, or reason" to combine the references. Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1579, 42 USPQ2d 1378, 1383 (Fed. Cir.

1997) (also noting that the “absence of such a suggestion to combine is dispositive in an obviousness determination”).

Evidence of a suggestion, teaching, or motivation to combine prior art references may flow, inter alia, from the references themselves, the knowledge of one of ordinary skill in the art, or from the nature of the problem to be solved. See In re Dembiczak, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form, must nevertheless be “clear and particular.” Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617.

If there was no motivation or suggestion to combine selective teachings from multiple prior art references, one of ordinary skill in the art would not have viewed the present invention as obvious. See In re Dance, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998); Gambro Lundia AB, 110 F.3d at 1579, 42 USPQ2d at 1383 (“The absence of such a suggestion to combine is dispositive in an obviousness determination.”).

Significantly, where there is no apparent disadvantage present in a particular prior art reference, then generally there can be no motivation to combine the teaching of another reference with the particular prior art reference. Winner Int'l Royalty Corp. v. Wang, No 98-1553 (Fed. Cir. January 27, 2000).

For at least the additional reason that the Office Action failed to identify proper motivations or suggestions for combining the various references to properly support the rejections under 35 U.S.C. § 103, those rejections should be withdrawn.

In view of the foregoing remarks, Applicants respectfully request the Examiner's reconsideration of the application and the timely allowance of claims 1-17 and 19-31.

#### **Cited Art**

The cited art made of record, but not relied upon, has been considered but is not believed to impact the patentability of the pending claims.


#### **CONCLUSION**

In view of the foregoing, it is believed that all pending claims are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

By:



Daniel R. McClure  
Registration No. 38,962

**Thomas, Kayden, Horstemeyer & Risley, LLP**  
100 Galleria Pkwy, NW  
Suite 1750  
Atlanta, GA 30339  
770-933-9500